

MACKAY SUIT LONG
MRS. BLAKE'S PLAN

Noted Surgeon's Wife Had Social Leader's Attorney Served Months Ago with Papers in \$1,000,000 Action.

WON'T FREE HER HUSBAND

Plaintiff Aims Only at Society Woman Whom She Accuses of Alienating Doctor's Affections—Mr. Mackay Said To Be Protecting Income.

The \$1,000,000 alienation suit which Mrs. Joseph A. Blake has brought against Mrs. Clarence H. Mackay, social leader, suffragist and the wife of the head of the Postal Telegraph system, alleging that Mrs. Mackay had robbed her of the affections of Dr. Blake, was begun, it was learned yesterday, more than six months ago.

Service of the summons and complaint in the action was made upon Arthur C. Train, former Assistant District Attorney, who acted as Mrs. Mackay's legal representative. As the law provides that personal service is unnecessary, and also that the papers in the action need not be filed until the litigants are ready to have the case tried, Mrs. Blake's action did not become known until after it had been stated that the wife of the prominent surgeon contemplated a suit for separation.

George Gordon Battle, Mrs. Blake's attorney, said last night that he could only repeat his statement to The Tribune printed yesterday morning.

"No papers have been filed," he said, "but I will not confirm nor deny the statement that Mrs. Mackay has accepted service through her attorney."

It was learned yesterday that Mrs. Blake has no intention of releasing Dr. Blake through divorce proceedings. Under no circumstances, it was stated, would she consent to an absolute divorce. She is determined, also, that at the present time she will only press the action against Mrs. Mackay.

Accuses Society Leader.

Beyond the allegation that in the frequent association of Mrs. Mackay with Dr. Blake the love which the surgeon had formerly felt for his wife had become lost to her, the summons in the alienation suit does not go into details.

Mrs. Mackay, who has maintained a close silence since the transfer of her dower rights in Harbor Hill, the Mackay estate at Roslyn, Long Island, first gave intimation that she and her husband had separated, is now in Portland, Me., where she has rented the home of former Mayor Adam P. Leighton. She went there soon after Mr. Mackay, taking their three children with him, left for Europe last June. His action was sudden, and he took every precaution that his departure should not be learned.

In Portland Mrs. Mackay has kept in retirement, seldom appearing outside the cottage. Her unexpected taking up of a residence in Portland aroused much speculation as to her purpose, some saying that she intended to live there a year to establish a legal residence.

The only ones outside of her personal acquaintances who presumably are familiar with her plans are her attorneys, Mr. Train and Henry W. Taft. At the office of Mr. Taft it was said that in his absence nothing was known of any legal action in which Mrs. Mackay was concerned.

Neither would Dr. Blake, at his country home at Litchfield, Conn., make any comment on the coupling of his name with that of the society leader.

In the light of Mrs. Blake's suit, it was thought yesterday that Mr. Mackay's motive was to get out of the country so that he and the children

QUEEN MARY DECLINES
TO MEET SUFFRAGETTE

Miss Glenteil Debarred from Attending Princess Patricia at Althorp.

[By Cable to The Tribune.] London, Sept. 24.—The most unmistakable indication yet published as to Queen Mary's views on suffragism is afforded by what has happened this week with regard to Lord and Lady Spencer's invitation to Princess Patricia of Connaught to be one of the house party at Althorp with the King and Queen.

Princess Patricia recently appointed Miss Glenteil, a prominent suffragette, to be her Lady-in-Waiting during the absence of Miss Adams, and the new appointee was to have gone to Althorp this week in attendance. The Queen refused to meet Miss Glenteil, and the princess would not go to Althorp without her.

The incident as far as the princess was concerned was closed by the latter sending her regrets to Lady Spencer and going with her aunt, Princess Henry of Battenberg, to Abergeldie Castle, Scotland.

SUES CITY FOR \$10,000

Man Asks Damages for Injuries Received at Penitentiary.

Giovanni Gillo filed suit in the Supreme Court yesterday against the City of New York and Commissioner Patrick A. Whitney of the Department of Corrections for \$10,000 damages for injuries which he said he received on April 10 last while a prisoner at the penitentiary on Blackwell's Island.

Gillo alleged he was ordered to paint the roof of the warden's house. He had no experience as a painter, and "was utterly ignorant of ways and means whereby to maintain himself securely on any roof."

The roof in question had a peak in the middle and was sloping. Planks were placed on one of the sides to serve as steps. One of these became loosened, precipitating Gillo to the ground. His left ankle and left wrist were broken and he was injured internally.

GRIDIRON'S FIRST VICTIM

University Halfback Has Spine Fractured in Game.

Worcester, Mass., Sept. 24.—The first serious football accident in the East this season may cost the life of Vernon Belyea, who played left halfback for the Norwich University eleven to-day in the game with Holy Cross.

Belyea suffered a fracture of the spine. At St. Vincent's Hospital it was said to-night that his condition was "very serious." The young man's home is in Greenfield, Mass.

The extent of the injury was not known until several hours after the game. Belyea, running back at Holy Cross punt, was tackled and fell. When it was seen that he was injured he was removed from the field, but his hurt was thought to be slight, and he was not taken to the hospital until some time later.

JOHN D. PRAISES QUIMET

"Admire Your Temperance Ideas," He Tells Young Golfer.

Boston, Sept. 24.—A telegram from John D. Rockefeller, ardent follower of the ancient game of golf, is among the many messages of congratulation that are pouring in upon Francis Quimet, the youthful amateur golf champion.

"Congratulations upon your American victory," Mr. Rockefeller telegraphed, and added: "Admire your ideas upon temperance."

Young Quimet is a total abstainer. Quimet took occasion to-day to deny reports that he is soon to become a professional. "It has never been my ambition to make money by playing golf. I love the game for its own sake," he said.

KLINE'S CALLERS RUSHED

Mayor Makes Record of 30 in 18 Minutes.

Mayor Kline resorted to the old way of seeing callers in the public reception room at the City Hall yesterday. He got rid of thirty persons in eighteen minutes, which time included a visit to his private office to answer a telephone call.

More than one thousand letters have piled up on the Mayor since the death of Mayor Gaynor. In addition, there have been scores of persons looking for various places in the city service, evidently not believing the Mayor's assertion that he does not intend to disturb the personnel in any department.

The outside hall and public reception room held enough visitors to last well into the evening if the Mayor had seen each one in his private office. Lieutenant Kennel suggested the public reception room. The Mayor stood in the center of the room, and Kennel escorted the visitors before the Mayor one at a time.

VASSAR BANS BUTTER

Cotton Mattresses Also Barred from College as Unsanitary.

[By Telegram to The Tribune.] Poughkeepsie, N. Y., Sept. 24.—After a year's study of the health situation at Vassar College the authorities have decided that cotton mattresses and butter are not conducive to good health. As a result butter is now barred from the table, and the girls hereafter will sleep on the hair mattresses required by the rule or curl up on a rug.

No explanation has been made as to why a ban has been placed on the old soft cotton mattresses and butter cut from the college menu.

A pony glass of ANOSTURA BITTERS before meals, a delicious appetizer.

TRAIN WRECK DUE
TO MAN FAILURE

Interstate Commerce Board Arraigns New Haven Directors as Well as Men.

FOUR BLAMED DIRECTLY

All Are Employees—Immediate Adoption of Adequate System of Safety Demanded of the Road.

[From The Tribune Bureau.] Washington, Sept. 24.—Direct responsibility for the New Haven accident at Wallingford, Conn., on September 2 is placed on four employees, in a stinging report made public to-day by the Interstate Commerce Commission.

Failure all along the line, from the officials and directors down to the trainmen, is cited by the commission as the cause of the wreck.

"Man failure," says Commissioner McChord, who prepared the report, after an exhaustive personal investigation of the accident, "began high up in official authority, and it was not an unnatural sequence that it reached down to those in positions lower in official rank, but still weighted with great responsibility."

In use at the time of the disaster, the report points out, were "antiquated signals condemned by the locomotive engineers as well as by the Public Service Commission of Connecticut," and old wooden cars, unsuited by construction for such traffic as they were expected to accommodate.

Commissioner McChord indicates the results of a similar recent accident at Tyrone, Penn., in which the equipment was all steel and in which none of the passengers were killed, as an object lesson in favor of the use of modern equipment.

New System Demanded.

The commission demands of the New Haven road the immediate adoption of "an adequate system of superintendence and supervision which will give those in authority definite and positive information as to whether or not the safety requirements and rules of this railroad are observed."

No recommendations for remedial legislation are made, although the report sets forth that the commission will make such recommendations as it may deem proper in the premises in its forthcoming annual report. There is a hint, however, that Congress will be asked to fix some definite time within which all high speed passenger trains shall be required to be made up exclusively of all steel cars.

Regarding the direct blame for the disaster, the report, which was drafted by Commissioner C. C. McChord, who made a personal investigation, says: "The direct cause of this accident was the failure of Flagman Murray properly to protect his train, the failure of Engineer Miller properly to control the speed of his train, in order to bring it to a stop before passing automatic signal No. 23, and the failure of Conductor Adams to make certain that his train was properly protected. An additional cause was the failure of Engineman Wanda to bring his train to a stop, as required by the rules, before passing automatic signal No. 23, which was in the stop position."

Directors Under Criticism.

After giving the personnel of the directorate, the report makes this caustic comment:

"On this directorate were, and are, men whom the confiding public recognize as magicians in the art of finance and wizards in the construction, operation and consolidation of great systems of railroads. The public therefore rested secure that, with the knowledge of the railroad art possessed by such men, investments and travel should both be safe. Experience has shown that this reliance of the public was not justified, as to either finance or safety."

"In view of the focussing of public attention upon the question of safety in the operation of this railroad, and in view of the frequent governmental inquiries, both national and state, as to the causes of and remedies for the frequent disastrous accidents, it would seem as if the directors themselves would feel called upon to turn from the consideration of the financial questions in which this road is involved and for a time, at least, give the benefit of their consideration and judgment to the question of safety."

Commissioner McChord says that the reference to the railroad management in the past, of course, has no application to the new president, Howard Elliott. He suggests that President Elliott, however, be permitted to devote himself primarily to the problems of safety of operation, "which this railroad management is now under the highest compulsion of duty and humanity properly to solve."

Trains Not Safeguarded.

In reference to the foggy weather on the morning of the Wallingford accident, the report says:

"Five passenger trains were permitted to close up within a distance of approximately ten miles, with only seven signals properly to space them. Under such circumstances it is not to

SULZER FREE, SCHIFF SWEARS,
TO USE \$2,500 GIFT AS HE LIKED



JACOB H. SCHIFF TESTIFYING IN THE SULZER TRIAL.
(Sketch by a Tribune artist.)

FIRST AERIAL COURTSHIP
TO END IN A WEDDING

'Jack' Vilas, Rich Chicago High Flyer, Wins Miss Wharton by Trip Into Blue.

An aerial courtship—more than one thousand miles of it in a flying boat over the St. Lawrence River—was disclosed yesterday, when announcement was made of the engagement of Miss Susanne Wharton, of No. 850 Belvidere avenue, Plainfield, N. J., and Logan A. ("Jack") Vilas, rich Chicago polo player, motor car racer and air boatman.

The couple admitted last night that they fell in love and made love while in the clouds—all of which had silver linings and rose colored borders, so far as they were able to see.

Mrs. Wharton camped with friends last summer near Alexandria Bay, Thousand Islands. One day a man dropped suddenly from the sky into the camp. It was Vilas, who was flying among the islands in his airboat. The moment Vilas saw Miss Wharton he sought a friend, who introduced him. Then he said to the young woman: "Come fly with me!"

Miss Wharton got into the airboat and they soared into the sky. For a month, every day and on moonlight nights, the couple traversed the blue.

"It was while on our flights that I did my courting," Mr. Vilas said last night. "Miss Wharton seemed born to the air. She never faltered, and her delight in flying made me feel that she was the only girl on earth or in the air for me. And our joint flying will not cease with marriage. It is in the contract that we shall continue to be the first couple to use the air for better or for worse."

Mr. Vilas said he expected his wife would be able to pilot the airboat herself after taking a few more lessons, and he felt that she would be far safer in the flying boat than in any automobile.

Mr. Vilas was fascinated by flying when he deserted the automobile, a year ago, to pilot an airboat. Most of his experiences has been in flying over water. He crossed Lake Michigan from St. Joseph, Mich., to Chicago. The trip was made in 1 hour and 34 minutes, and the glide to the beach on the lake front was so smooth and noiseless that he dropped right into the midst of a great excitement.

BREWER DIES IN COURT
JUST AFTER TESTIFYING

Max E. Bernheimer Excited by Subpoena in Damage Case and End Comes.

Max E. Bernheimer, president and treasurer of the Bernheimer & Schwartz Brewing Company, of Amsterdam avenue and 128th street, Manhattan, died suddenly yesterday afternoon in the Supreme Court in Brooklyn, where he gave testimony in a damage suit against his company. He had just left the witness stand, when he was seized with an attack of heart disease.

The case in which Mr. Bernheimer was called to testify was that of Gustave Kenz, a painter, who brought suit for \$10,000 damages, claiming that his eyes were injured by acid from vats in the brewery. Mr. Bernheimer completed his testimony and stepped from the stand, when counsel for Kenz served him with a subpoena which called for his appearance in the case to-day.

Mr. Bernheimer became greatly excited, and hurried to George N. Conrady, the clerk of the court, and asked him to use his influence with Justice Van Selen to obtain leave of absence to-day by reason of an important business appointment. Before Conrady could make a reply Mr. Bernheimer threw up his hands, tottered backward a step and fell.

Dr. Bulkley, of the Brooklyn Hospital, arrived within a few minutes, but the brewer was dead. The body was taken to the Bernheimer home, at No. 33 West 72d street, Manhattan.

Mr. Bernheimer was born in New York fifty-eight years ago and was the son of Emmanuel Bernheimer, the founder of the Lion Brewery. He went to school at "Old No. 35" in West 13th street, and then went to work in the brewery which he inherited on his father's death.

Mr. Bernheimer was a member of the Brewers' Association and the Auto and Rocky Mountain clubs. He leaves a wife and two sons, George and William.

The funeral will be held at the Temple Emanuel-EI, 43d street and Fifth avenue, to-morrow morning at 10 o'clock.

"COKE" FIEND BEGS A CELL

Youth Asks Magistrate to Help Him Break Habit.

William Luff, twenty years old, was sent to the City Reformatory yesterday afternoon following his plea to Magistrate Breen that he be put in a cell to break him of the cocaine habit. His father said he had become so addicted to the drug that he even pawned his clothes to buy it.

Patrolman Kelly later in the day found Cyrus Downing, of No. 33 West 48th street, apparently unconscious, holding the steering wheel of an automobile in Central Park. He was taken to the Harlem Hospital, where it was thought he was probably suffering from cocaine poisoning. When Downing became conscious he said he had taken a headache powder.

Henry Morgenthau Also Tells Impeachment
Court His Contribution Was Not Limited
Exclusively to Campaign Purposes.

PERJURY AND LARCENY CHARGES STAY

President Cullen's Opinion Followed by a Vote of 49 to 7 in Favor of Deferring Action on Motion to Dismiss Until Testimony Is All in—Proof To Be Adduced Is Outlined.

Jacob H. Schiff and Henry Morgenthau testified before the High Court of Impeachment yesterday that they placed no limit on the use of their contributions of \$2,500 and \$1,000, respectively, to Mr. Sulzer at the time of his candidacy for Governor.

Lawyers for the defence regard this testimony as distinctly favorable to the Governor, the allegation having been made that these were made as campaign contributions exclusively.

By a vote of 49 to 7 the court, following a suggestion of President Cullen, reserved decision until all the testimony was heard on the motion of Governor Sulzer's counsel to dismiss the three of the eight articles of impeachment which charge perjury, larceny and failure to file a correct list of campaign contributions.

Abram I. Elkus, John Lynn, Bird S. Coler and Lewis J. Conlin are to take the witness stand to-day and tell about contributions to the Governor's campaign.

Eugene Lamb Richards, in outlining the charges against Sulzer, indicated that an attempt is to be made to prove acts of stock speculation since he became Governor.

COUNSEL FOR GOVERNOR
SEE VICTORY IN TESTIMONY

[From a Staff Correspondent of The Tribune.] Albany, Sept. 24.—Having adopted President Cullen's suggestion that the motion of Sulzer's counsel to strike out three of the articles of impeachment be denied for the present and decision reserved until all the testimony is heard, the High Court of Impeachment began this afternoon to take testimony against Mr. Sulzer. The articles on which a decision was reserved are as follows:

Article 1 charges that the Governor filed with the Secretary of State a false statement of his receipts and other monetary transactions involved in his campaign for election in violation of the corrupt practices act.

Article 2 charges that in swearing to "such false statement" the Governor was "guilty of wilful and corrupt perjury."

Article 6 charges that he committed grand larceny in speculating on the New York Stock Exchange with money and checks contributed to his campaign.

The court's adoption of Judge Cullen's opinion was by a vote of 49 to 7. Those voting no were Senators Duhamel, Independent Democrat, and Herrick, McKnight, O'Keefe, Peckham, Seelye and Wheeler, Democrats.

Schiff Did Not Limit Check.

Jacob H. Schiff, head of the banking firm of Kuhn, Loeb & Co., taking the witness stand, swore that William Sulzer after his nomination solicited a campaign contribution from him. The banker said he would give \$2,500, and Sulzer protested because it was not more. A check of the firm was drawn, delivered by mail or in person to Louis A. Sarecky, Sulzer's secretary, and was paid through the regular banking channels.

Cross-examined by Louis Marshall for the Sulzer defence, Mr. Schiff said he did not intend to limit the use of the gift in any way. He really intended to help Sulzer in any way he could.

Henry Morgenthau, now Ambassador to Turkey, swore that he personally gave Sulzer a check for \$1,000. The candidate said he did not want to take it because Morgenthau was doing so much for the Democratic National Committee.

Mr. Morgenthau also swore that he placed no limitations on the use of this money. He said, however, on re-direct examination, that he gave this money to Sulzer because he was a candidate and would be under expenses for the canvass. If Sulzer had not been a candidate the check would not have been given to him.

Thomas M. Godwin, paying teller of the Farmers' Loan and Trust Company, where William Sulzer's personal account was kept, identified indorsements on the Morgenthau check and one of \$500 drawn by Abram I. Elkus as Mr. Sulzer's. He also identified the handwriting of certain deposit slips as Sulzer's.

He declined to express his opinion about the indorsements on other checks which had not passed through his institution, after endeavoring to avoid testifying as an expert, because the counsel for his bank had told him not to testify about matters which did not concern that institution. This brought a rebuke from President Cullen, who said the instructions of even the greatest corporations must go down before the wishes of the High Court of Impeachment.

Alfred J. Wolff, a New York City notary public and commissioner of deeds, who took Governor Sulzer's affidavit appended to his challenged statement of campaign receipts and expenditures, was examined by Harvey J. Hinman, for the Sulzer side, in an endeavor to show that Wolff was not legally a commissioner of deeds when he attested that document, and that there was

some doubt about his having taken the affidavit.

Favorable to Sulzer.

Thus the result of the first day's testimony was somewhat favorable to Governor Sulzer, particularly Mr. Schiff's testimony that he placed no restrictions on the use of his \$2,500 gift. This will enable the defence to argue that the Governor was not stealing funds given for a specific purpose, but using for his own benefit money given freely to him. It is evident that this is to be part of the line of defence.

Also favorable to the Governor was a failure of the prosecution's lawyers to compel the defence to make an opening argument before the calling of witnesses, which would have outlined the plan of campaign. President Cullen ruled that this was not required.

Judge Cullen's suggestion that questions of law go over until the testimony is in and he decided then along with the questions of fact is not a victory for either side. The question of striking out the articles of impeachment charging theft and perjury was a moot point.

When Mr. Schiff and Mr. Morgenthau testified that they had placed no limitation on the use of their gifts President Cullen said:

"It possibly cannot make any difference in this case, but if I was sitting in a criminal prosecution I should have to charge the petit jury that if the owner consented to the use in any manner of the money or check given by the party to whom it was delivered such use would not constitute larceny."

It is true that the seven Senators who voted for immediate decision of the question are classed as "Sulzer Senators," but it is not believed they represented the entire Sulzer strength if that question had been up for immediate decision. The pro forma decision against the defence, though, permits what the board of impeachment managers wanted most—the taking of testimony about Sulzer's campaign funds.

Tammany Hall Not Known.

Testimony began almost at the beginning of the afternoon session of court, when Mitchell May, Secretary of State, was called to the stand. He produced the original certificate of the chairman of the Democratic state convention that Sulzer had been chosen a candidate for Governor and the oath of office signed by Governor Sulzer in his presence. Also he produced the statement of campaign receipts and expenses sworn to by the Governor.

This produced a brief cross-examination by Louis Marshall, who wanted to know if any statement of campaign receipts or expenses had been filed by the Democratic State Committee and the Democratic County Committee of New York County. Secretary May said such statements were on file in his office.

"Was there filed a statement of what is colloquially known as Tammany Hall?" asked Marshall.

"I know of no such report on file under that designation," answered May.

"Have you looked?"

May said he had not, but the name had never come under his knowledge officially.

This Morning's News

LOCAL.

- Suit Against Mrs. Mackay Long Secret 1
- Wedding to Follow Aerial Courtship. 1
- Brewer Dies in Court. 1
- Whitman and Swan Disagree. 5
- Court Decision Strengthens Aldermen. 5
- Jersey Republicans United Again. 5
- League Turns Down Hopper. 5
- Headley Elopement Forgiven. 6
- Columbia's 160th Academic Year Opens 6
- Heiress Asks \$5,000,000 Land Sale. 7
- Windmiller Not at Sanity Test. 7
- Maxwell Reprimanded by Board. 7
- Bulk of Gavner Estate to 5 Children. 9
- Double Murder in New Jersey. 16
- Schmidt Goes Before Alienists. 16
- New Subway Cars Win Favor. 16
- Dr. Warne Sums Up for Trainmen. 16

GENERAL.

- Schiff Put No Limits on Sulzer Check. 1
- Man Failure Caused New Haven Wreck 1
- High Court Follows Judge Cullen. 2
- Says Sulzer Sought Cash Most. 2
- Deals Talks on Mexico. 2
- Cotton Tax a Stumbling Block. 4

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- Ulster Unionists Organize. 3
- Gambon Named for President. 3

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- News for Women. 6
- Army and Navy. 6
- Editorial. 6
- Society. 6
- Theatrical. 6
- Obituary. 6
- Sports. 10 and 11
- Shipping. 11
- Weather. 11
- Financial and Markets. 12, 13 and 14
- Real Estate. 14 and 15